IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.
Writ Petition No.5789 of 2007
[Smt. S.P. Kowe & ors. Vs. F.G. Atram & ors.]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. M.P. Jain, Advocate for the petitioners.

CORAM : A.H. JOSHI, J.

DATE : 19th December,2007.

1. Heard.

2. The Judgment of the First Appellate Court, which reverses the order passed below Exh.5 and grants application [Exh.5] in the suit and injunction in favour of the plaintiffs is under challenge.

3. The Trial Court rejected the defendants' version on the ground that though apparently those are the affidavits of neighbouring land owners, the same are stereo-type and replicating one another.

4. The Appellate Court also found that plaintiffs' names are shown in the cultivation column for the years 2003-04 and 2004-05, and in this background, when it is not the defendants' case that the defendants have forcibly and illegally, or otherwise, dispossessed the

plaintiff no.1 from the suit property, there is nothing on record pleaded or proved, that the defendants came in possession.

5. In fact, the aforesaid discussion in the Judgment of the Appellate Court is sufficient material to hold that the plaintiffs' possession is proved and plaintiffs have a prima facie good case. Once the possession is proved, the injunction granted by the First Appellate Court was to follow. The Appellate Court is, therefore, right in what it has done. The reasoning based on fact-finding done by the Appellate Court in the order under challenge in this petition is not shown to be erroneous or vitiated due to being perverse. In the circumstances, no interference is called for.

6. Writ Petition is, therefore, dismissed.

Judge

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